

## Meeting Minutes February 9, 2006

### Town of Los Altos Hills City Council Regular Meeting

Thursday, February 9, 2006 6:00 P.M.  
Town Hall Council Chambers, 26379 Fremont Road

#### 1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Kerr called the City Council Regular Meeting to order at 6:05p.m. in the Council Chambers at Town Hall.

Present: Mayor Breene Kerr, Mayor Pro Tem Dean Warshawsky, Councilmember Craig A. T. Jones, Councilmember Jean Mordo and Councilmember Mike O'Malley

Absent: None

Staff: Acting City Manager/Planning Director Carl Cahill, City Attorney Steve Mattas, Administrative Services Director Sarah Ragsdale, Director of Public Works/City Engineer Henry Louie and City Clerk Karen Jost

#### 2. APPOINTMENTS AND PRESENTATIONS

##### 2.1 Appointment to the Emergency Communications Committee

Councilmember Mordo introduced the application, noting that Mr. Gerald Tomanek had resided in Los Altos Hills for over twenty years. He was an active volunteer in the community, a licensed ham radio enthusiast and CERT trained emergency volunteer. Mordo added that he would be a valued addition to the Emergency Communications Committee. His comments were echoed by Emergency Communications Chair Dru Anderson.

**MOTION SECONDED AND CARRIED:** Moved by Mordo, seconded by Warshawsky and passed unanimously to appoint Gerald Tomanek to the Emergency Communications Committee for a term of four years.

##### 2.2 Report from the Legal Counsel to the Public Education Committee on Options for Education Redistricting for Los Altos Hills

Kathleen Justice-Moore, Public Education Committee, introduced this item to Council. She provided an historical overview of the Committee's efforts to investigate the return of public education to Los Altos Hills. She referenced the matrix of nine possible options and the Committee's analysis of each that had been presented in May, 2005 to the City Council. Justice-Moore noted that the Committee had considered three of the options the most viable and they included: the formation of a K-8 school district; the formation of

a K-12 school district; and, the transfer of some or all of the Los Altos School District in Los Altos Hills into the Palo Alto Unified School District. The Committee had sought a legal assessment of these options and engaged legal counsel Marguerite Mary Leoni of Nielsen, Merksamer, Parrinello, Mueller and Naylor, LLP to analysis the options for their legal and political feasibility. Justice-Moore introduced Leoni and noted that she headed her firm's school district reorganization and legal services practice and was the lead attorney for the Town of Woodside for the formation of their K-8 school district. Ms. Leoni had been asked by the Committee to review and provide information on a primary question; "How can the Town best achieve in-town public education, given the current school district boundaries, the realities of electoral politics, the property-based revenue stream, and the legal requirements of the California Educations Code?" and she was before Council tonight to present her findings on the three options Justice-Moore had defined. In conclusion, Justice-Moore explained that the Public Education Committee had not had the opportunity to review the presentation by Ms. Leoni and would present their recommendations at a future Council meeting.

Marguerite Leoni addressed Council. She provided an overview of her firm's expertise in electoral and political law districting that included school reorganization. Examples of reorganizations that she had represented in Santa Clara County and surrounding Counties included the Emerald Hills Transfer and Moreland Elementary School District.

Leoni proceeded with a PowerPoint presentation. For the purpose of discussion, she focused on the three most likely reorganization scenarios suggested by the Public Education Committee that had as their primary goal the return of an elementary school to the Town of Los Altos Hills. The scenarios included: a Territory Transfer; the formation of school district K-8; and, the formation of a unified district (K-12). She reviewed the following questions and their applicable results for each option on schools and attendance patterns: guarantee of a school in Los Altos Hills; high school district; facilities and property transfer; parcel taxes; existing bond obligations; and, inter-district transfers for attendance in existing districts.

Regarding statutory implications associated with the formation of a K-8 school district and the high school designation of students, Leoni explained that the automatic presumption would be for the students to feed into Mountain View - Los Altos High School District. For students to feed into the Palo Alto Unified School District, administrative waivers would be required from the State Board of Education. Leoni reviewed the Thompson Bill and its application as an option for a K-8 school feeding into a 9-12 unified school district.

Leoni outlined the "Nine Criteria" for reorganization and reviewed each individually as applicable to the Town. They included:

- 1) The reorganized districts will be adequate in terms of number of pupils enrolled.
- 2) The districts are each organized on the basis of a substantial community identity.
- 3) The proposal will result in an equitable division of property and facilities of the original district or districts.

- 4) The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.
- 5) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
- 6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.
- 7) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
- 8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
- 9) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

Leoni offered that the Town made a compelling argument for reorganization but noted that it was possible to meet all of the criteria requirements and still have the reorganization application denied at the discretion of the State Board of Education. Leoni suggested fiscal issues were the most significant challenge to reorganization in Los Altos Hills.

Leoni explained the area of election for reorganization. The most likely scenario if the application for reorganization was approved was that the election would be limited to Los Altos Hills residents. The approval of the reorganization would carry with it the presumption that the Town was the only affected territory.

Leoni summarized the reorganization vehicles available to the Town. They included: a 25% Petition of the registered voters in the territory to be reorganized; 10% Petition of the registered voters in the affected districts which went to the County Committee and could potentially be denied; a Resolution of the City Council or County Board of Supervisors; and, a reorganization motion by the County Committee acting alone. Leoni explained that if the Resolution was accepted by the County Committee, the Committee would be required to develop the plans and recommendations for the reorganization but if it was denied, it would stop there. The denial by the County Committee however did not preclude the Town from moving forward with the 25% Petition. Leoni clarified that the County Committee could only make recommendations on the 25% Petition with the final decision resting with the State Board of Education. The final approval of the reorganization would be voted on by the residents of Los Altos Hills.

Leoni reviewed Council's options for "next steps" in the process. She suggested that the fiscal issues be assessed, boundaries determined, and a full analysis of the nine criteria be completed. Leoni added that Council and voters would then need to determine the best reorganization vehicle for the Town.

Council thanked Leoni for her presentation. Mayor Kerr requested that she forward any further comments to the City Council as an Attorney-Client privileged and confidential communication.

Council consensus was to refer Ms. Leoni's report to the Public Education Committee for their review and recommendations.

### 3. PLANNING COMMISSION REPORT

Acting City Manager/Planning Director Carl Cahill reported that the Planning Commission had met on February 2, 2006 and considered an application for a Conditional Development Permit for a project on a non-conforming lot and the rezoning of the unincorporated San Antonio Hills area. Cahill reviewed the Commission's actions noting that they had approved the Conditional Development Permit and voted 3-2 to forward the rezoning application to Council with a recommendation to deny the proposed rezoning of the Eastbrook/Magdalena area. The rezoning application would be scheduled for a Public Hearing at a future Council meeting.

### 4. CONSENT CALENDAR

Items Removed: 4.6 and 4.10 (Councilmember O'Malley)

Mayor Kerr abstained from consideration of Agenda Item 4.12 due to a potential conflict of interest.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Warshawsky and passed unanimously with Mayor Kerr abstaining from consideration of Agenda Item 4.12 to approve the remainder of the Consent Calendar, specifically;

- 4.1 Approval of Minutes: Regular City Council Meeting January 12, 2006  
Special City Council Meeting January 12, 2006
- 4.2 Review of Disbursements: 01/19/2006 – 01/31/2006 \$347,489.03
- 4.3 Investment Report for Quarter ended December 31, 2005
- 4.4 Adoption of the Bay Area Local Hazard Mitigation Plan and the Town of Los Altos Hills Annex by Resolution – Reso #6-06
- 4.5 Adoption of Ordinance 442 - Amendments to the Town's Zoning Code with Regard to Fences , Walls, Gates and Columns (Section 10-1.5.507) (SECOND READING)
- 4.7 Acceptance of the 2004 Sanitary Sewer Repair and Rehabilitation Project  
Reso #7-06
- 4.8 Award of Contracts: Geotechnical Investigation of Pathway at Foothill Community College Reso #8-06

- 4.9 Award of Contract: Storm Drain Repair Project at Page Mill Road near Alexis Drive – Reso #9-06
- 4.11 Resolution Approving Landscape Change Order for New Town Hall Reso #10-06
- 4.12 Resolution Approving Construction Change Order for New Town Hall Reso #11-06
- 4.13 Resolution Approving Payment of Construction Management Invoice for Extra Services to Complete Hipsher Construction Contract Work Reso #12-06
- 4.14 Request for Extension of a Tentative Map, Lands of Kearns; 11261 Magdalena (APN:336-41-006)

Items Removed:

- 4.6 Notification of Fast Track Approval: Lands of Szekely, 13643 Wildcrest Drive; A Request for a Site Development Permit for 1,571 square foot First and Second Story Addition (maximum height 24'6')

Councilmember O'Malley requested clarification of this item. Acting City Manager/Planning Director Carl Cahill explained that the project included legally permitted existing non-conforming development that was supported by the applicant's documentation.

- 4.10 Consideration of Accepting Application for Sewer Connection in the Los Altos Sewer Basin for the 25 Sewer Capacity Rights

Councilmember O'Malley requested that the letter be amended to include reference to the expectation that the agreement between the Town and Los Altos would be implemented by September, 2006 and the expectation was for sufficient sewer capacity to serve all residents of the Town.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to approve Agenda Item 4.6 as presented and Agenda Item 4.10 as amended.

5. UNFINISHED BUSINESS

5.1 Town Goals

5.1.1 Implementation of Strategic Conservation Goals

Mayor Kerr reported that the Energy Initiatives Committee was moving forward on the Energy Efficiency Ordinance and he expected the draft ordinance to be agendized for Council discussion in the near future.

### 5.1.2 Bringing Public Education Back to the Hills

Discussed in conjunction with Agenda Item 2.2.

## 5.2 Underground Project Status Report

Mayor Pro Tem Warshawsky reported that the Town's Pilot Project was in the PG&E queue for review. The construction date had been accelerated by three months and was expected to begin in April 2007.

## 5.3 Update on General Plan Review

### 5.3.1 Request for Funding for Support Services for the General Plan Ad Hoc Committee During Phase One of the Update Process

Mayor O'Malley reported that the Ad-Hoc Committee was making excellent progress on the General Plan review. He requested Council consideration of funding for a professional to assist with processing the document. He noted that all proposed changes would be identified in the draft document.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Jones and passed unanimously to approve an expenditure of not-to-exceed amount of \$10,000 for consulting services to assist the Ad-Hoc General Plan Committee.

## 5.4 Update on Ad-Hoc Planning Committee

### 5.4.1 Request for Additional Funding to Allow the Ad Hoc Planning Committee to Complete Its Study of Highly Visible Lots and Large Homes

Councilmember Mordo reported that the Ad-Hoc Planning Committee had made considerable progress on a draft ordinance related to large homes. He requested funding for consulting services to assist in the completion of the study.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Warshawsky and passed unanimously to approve an expenditure of not-to-exceed \$5,000 for consulting services to assist the Ad-Hoc Planning Committee.

## 6. NEW BUSINESS

### 6.1 Consideration of Councilmember Appointment to the Valley Transportation Authority Policy Advisory Board

Mayor Kerr explained that he would be requesting a deferment from the VTA for the Town's participation in their Policy Advisory Board due to the Councilmembers' numerous commitments at this time. Kerr explained that the Town's interests were adequately represented with his voting membership on the Board.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Mayor Kerr reported that he had accompanied members of the Environmental Initiatives Committee to the recycling center to view “first hand” the single stream recycling program and noted that they were “doing a good job.”

Mayor Kerr reported on the recent efforts regarding the Tax Equity Act. He had met with several County Supervisors and believed the initiative to restore the Town’s fair share of property tax revenue was being received favorably by the Board. He believed the issue had a potential for being resolved this year.

7.1 Proposed Recommendation for Policy Change Regarding Donations to Charitable Organizations – Community Relations Committee

Ron Knapp, Community Relations Committee member, addressed Council. Council had before them a recommendation submitted by the Committee on a proposed policy change regarding the Town’s charitable donations. He explained that the Committee opposed the use of taxpayer money for philanthropic purposes and were requesting that the donations be discontinued and all line items relating to the donations be removed from the upcoming budget. He suggested that residents could make donations directly to charities of their choice. Knapp referenced the manner donations were made by the Town and suggested that a letter from the Town to the charitable organizations seeking their input on their funding needs was inappropriate.

Sarah Ragsdale, Administrative Services Director, reviewed the budget process with Council. She explained that the letters sent to the organizations included a request for information regarding their programs/services and how they benefited residents of the Town. The funding requests were presented to the Council for their consideration in the proposed budget and listed in the budget section called “Community Services” which included a list of the organizations by name along with the proposed funding for each agency. Ragsdale noted that the funding for fiscal year 2006 was discussed at the Council goal-setting session, at the joint study session of the Council with the Finance and Investment Committee and at the budget adoption public hearing in June.

Knapp suggested several alternative options to Council for charitable funding. These included: 1) Council could limit their donations to charitable organizations located/operating in Los Altos Hills that benefited the residents of Los Altos Hills; 2) establish an emergency relief fund with a fixed amount designated to assist the well being of residents or their property following a natural disaster; 3) establish an emergency relief fund to assist residents following a non-natural disaster i.e. war.

Knapp concluded that an additional objection of the Committee with the funding process was the lack of public discussion as to the donations.

Council discussion ensued. Councilmember O’Malley explained that the charitable contributions were reviewed by Council several times during the budgeting process. The

recipients were local organizations and it was common for other neighboring cities to participate in the funding. He noted that the budget was approved at a public hearing and that less than one percent of the Town's annual budget was donated to the organizations that benefited the local area.

Councilmember Jones explained that he respected the public input on the Town's charitable contributions and he welcomed a review of the process, however, he believed it was appropriate for the Town to share their "bounty" with the non-profits.

Councilmember Mordo suggested that the contributions should be reviewed carefully. He supported the Town continuing to make donations but believed a change in the process should be considered and offered that the responsibility for requesting funds should reside with the non-profit. He suggested a single line item in the budget with no specific charity identified.

Jones suggested a budget of \$50,000 with the organizations making a request to the Town and demonstrating a nexus to the region. He offered that it would be irresponsible for the Town to discontinue their contributions and added that there were citizens in the town's community that benefited from their services.

Mayor Pro Tem Warshawsky suggested that it would be prudent of the Town to notify the organizations if there was a change in the standard policy offering that the contributions were an important part of the non-profits budgets. He supported the continuation of charitable donations by the Town.

In response to a request by Knapp to have the Community Relations Committee review the charitable funding and allocate the donations, Council consensus was to have Council review and approve the appropriations.

Knapp suggested that the Committee could do fund raising for the charities as an alternative to making donations. There was no Council consensus to support this proposal.

Sarah Ragsdale suggested several alternatives to how the Town could best distribute funds to the service agencies. She offered that a letter could be sent to each organization, advising them that a certain amount of money was available and that applications would be considered by the Council or body appointed by the Council to review the applications. This would allow the non-profits to budget accordingly. Ragsdale had surveyed surrounding communities and there was a wide variety of policies regarding

**MOTION MADE:** Moved by Mordo to put a lump sum in the budget (\$50,000) and consider requests as they are forwarded to the Town by the charities for Council consideration. Motion withdrawn by Councilmember Mordo.



MOTION SECONDED AND CARRIED: Moved by Jones, seconded by Mordo and passed unanimously to direct staff to fund a general line item for \$50,000 for charitable donations and schedule an annual presentation to the Council by the organizations. Organizations that previously received donations would be notified of the date of the presentation before Council.

7.2 Report by Councilmember Jones of the Ad Hoc Committee on Recreational Facilities on Discussions with Friends of Westwind Barn

Agenda Item 9.3 was considered in parallel with this item.

Mayor Pro Tem Warshawsky and Councilmember O'Malley recused themselves from participation in discussion of Item 7.1 and Item 9.3 and stepped down from the dais.

Councilmember Jones provided an overview of the Ad Hoc Committee's charter and their efforts to date. He noted that the Committee was initially focusing on Westwind Barn during their review of the governance of the Town's recreational facilities. He proceeded with a PowerPoint Presentation titled "February 2006 Interim Report – Management of Westwind Barn". Jones reported that he had met with the President and member representatives of the Friends of Westwind (Friends) to discuss outstanding issues at the Barn and he was before Council to provide an overview of what had been discussed. He noted that eventually the Council would enter into specific negotiations with the Friends regarding the lease and these negotiations would be conducted in closed session and it was important to have transparency regarding the issues being considered.

Jones identified the seven issues that he had discussed with the Friends. These included: 1) Management Services Agreement with the Friends being hired as an organization to manage the Barn vs. Lease ; 2) annual review of the Barn policies, programs at the Barn and whether the community's needs were being served vs. a ten year lease; 3) governance of friends and the issue of non resident members having voting privileges; 4) expansion of the Parks and Recreation programs at the Barn; 5) resident priority for boarding; 6) living conditions for workers at the Barn; and, 7) Barn manager and the Town's role.

Jones offered that it was a friendly meeting and he had not negotiated any of the issues he identified but merely presented them for their consideration.

Jones reviewed a list of some of the potential community programs that could be implemented at Westwind Barn. They included non riding programs and expanded horse riding activities. He added that some of the proposals might not be feasible. Suggested programs included: expanded children riding lessons; adult riding lessons; adult guided trail rides; nature walks; additional community events; adult classes; and, kids' birthday parties.

He updated Council on the status of the living quarters for staff at the Barn. The Friends had advised him that no one was currently living there and the family was being sheltered at a hotel at the Friends expense. The improvements to the single person quarters had been completed.

Jones reported that he had discussed with Sharon O'Malley, President of Friends, the Town's commitment to ensure that the displaced family found temporary housing. He suggested that the Town's responsibility in cooperation with the Friends to find a short term housing solution was appropriate. Jones noted that he did not have a specific proposal to present to Council at this meeting, but defined short term as March-June. This would give the family time to find permanent housing.

Jones reviewed the "next steps" in the review process that included: 1) a response from the Friends at the scheduled meeting of February 16<sup>th</sup>; 2) consultation with outsiders; 3) follow-up meeting with the Ad-Hoc Committee; 4) recommendation to Council on a lease negotiation to be initially in closed session; and, 5) final outcome to be publicly disclosed.

#### OPENED PUBLIC COMMENT

Ulrike Sharma, La Rena Lane, informed Council that she had a cottage that she would be happy to rent to the Barn staff for temporary housing. She explained that she was waiting to get approval of her planning application for the auxiliary unit.

#### CLOSED PUBLIC COMMENT

### 8. STAFF REPORTS

#### 8.1 City Manager

#### 8.2 City Attorney

#### 8.3 City Clerk

##### 8.3.1 Report on Council Correspondence

Acting City Manager Carl Cahill commented on the letter in Council's packet from California Water. He noted that there were remaining issues regarding the DeBell project but it appeared that the easement issue had been resolved.

### 9. COUNCIL-INITIATED ITEMS

#### 9.1 Discussion of Process for Initiating an Ordinance to Address the Issue of Eucalyptus and Other Dangerous Trees – Councilmember Mordo

Councilmember Mordo offered that there was a Council consensus that the issue of eucalyptus and dangerous trees needed to be addressed. He acknowledged that City Manager Cassingham had initiated an assessment of trees in the road right-of-way to determine what actions needed to be taken with some immediacy. Mordo suggested that he would like to address the long term issue and have Council consider the possibility of an ordinance to enforce the care of dangerous trees. He believed it would be appropriate to initiate the process and charter the Ad-Hoc Planning Committee to begin the research

and move the findings on to the Planning Commission or have staff prepare a staff report with recommendations on how to proceed.

Jones noted that the staff had already been charged with developing a report on the subject.

Acting City Manager Cahill reported that the City Engineer Henry Louie had begun assembling the inventory of dangerous trees in road right-of-ways and staff had begun the second facet of Council's direction and performed a cursory review of surrounding cities and their requirements regarding tree removal. Their initial research had not found any jurisdiction that required the removal of trees on private property including eucalyptus trees. He noted that this did not preclude the Council from developing an ordinance that required the removal of a tree on private property. The Town already had in place the right to require the removal of dangerous trees in Town right-of-ways.

Council discussion ensued. Council consensus was to review the preliminary staff report and arborist report before defining the next step in the process.

Staff advised that they would have the staff report(s) available in March and would have an arborist provide input.

Council direction was to have the report include "potentially hazardous trees."

9.2 Consideration of Performance of "Bullis On Broadway" by Bullis Charter School Students for Los Altos Hills Residents – Councilmember Mordo

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Warshawsky and passed unanimously to invite the Bullis Charter School students to perform "Bullis on Broadway" for Town residents at Town Hall on a date to be determined.

9.3 Consider Potential for Detached Housing Unit at Westwind Barn and Related Funding – Mayor Kerr and Councilmember Jones

Considered in conjunction with Agenda Item 7.2. Councilmember O'Malley and Mayor Pro Tem Warshawsky abstained from consideration of this item.

9.4 Consider City Manager Recruiter Selection and Authorization to City Manager Subcommittee to Approve Contract with Recruiter – Councilmember Jones and Councilmember Mordo

Councilmember Jones reported that the City Manager Subcommittee would be interviewing search firms next week and make their recommendation to Council at the following meeting. They were working closely with the City Attorney to identify the firms, schedule the interviews and check references.

## 10. PRESENTATIONS FROM THE FLOOR

Christine Sellers, City of Los Altos resident, commented that she had been a member of the citizen task force that had assisted in drafting their wireless ordinance. She noted that she lived within 350 feet of a tower. Mayor Kerr respectfully requested that she defer her testimony until the public hearing.

Chris Vargas, Templeton Place, requested that Council consider agendizing for their consideration sponsorship of a Town wide clean-up of the pathways to be scheduled for Earth Day. He noted that Bullis Charter School students had volunteered to participate in the first annual event.

Sheri Emling, Murietta Way, encouraged the Council to consider a Council resolution in support of reorganization. She believed that the existing school districts were primarily interested in the parcel tax revenues and not interested in the Town.

## 11. PUBLIC HEARINGS

Mayor Kerr, with regard to Agenda Item 11.2, explained that the City Council had received a letter from an attorney representing the Breier's. The letter raised various issues including an allegation that action on the Environmental Review Document was not listed on the agenda even though it was included in the staff report that accompanied the agenda. The City Attorney suggested that to ensure that there were no question as to the adequacy of the agenda notice, the City Council conduct the Public Hearing and then close the Public Hearing and Council ask any questions they might have, but continue action on the Negative Declaration and the project to a subsequent meeting set by the City Council. The Mayor encouraged everyone who desired to speak on the issue to do so since Council would be taking all public testimony at tonight's meeting.

### 11.1 Consideration of Revised Sewer Connection Fee Schedule for the Los Altos Sewer Basin

City Attorney Steve Mattas explained that staff would be returning to Council at their next scheduled meeting with a different vehicle for adopting the "Revised Sewer Connection Fee Schedule". Public testimony would be taken at this meeting and Council action on the item would be deferred.

City Engineer/Public Works Director Henry Louie introduced this item. He summarized his staff report for Council. The City Council at their November 3, 2005 meeting approved the revised sewer connection fee of \$7,950 for the new user residing in the Palo Alto Basin. The new user fee for the Los Altos Basin was deferred until such time as an agreement with Los Altos for connections had been secured. Louie explained that sewer connection fees were a one-time fee paid by those wishing to connect a new facility to the public sewer system. Fees would be used for sewer system improvements.

## OPENED PUBLIC HEARING

Jim Abraham, Viscaino Road, commented that the residents served by the Palo Alto system had historically paid higher sewer fees than the residents in the Los Altos Basin. The fees had been commingled in the Sewer Enterprise Fund and he believed this was unfair. Abraham suggested that the Los Altos fees be structured higher to correct this.

City Engineer/Public Works Director Louie explained that the fee would only be applicable to new sewer hook-ups.

## CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to close the Public Hearing and continue the Council vote on the Revised Sewer Connection Fee to the next City Council meeting.

- 11.2 A Request for a Site Development Permit and a Conditional Use Permit for an Unmanned Wireless and Emergency Communications Facility Consisting of Three (3) Pairs of Panel Antennas and Four (4) Emergency Communications Antennas Mounted on a 70 foot tall Artificial Tree Pole with Associated Ground Equipment: Lands of Los Altos Hills (Applicant: Cingular Wireless) 26379 Fremont Road.

Senior Planner Debbie Pedro introduced this item to Council. She presented a PowerPoint presentation titled "Cingular Wireless, 26379 Fremont Road, Site Development and Conditional Use Permit for a Wireless and Emergency Communications Facility at Town Hall, Application #214-05-ND-IS-SD-CDP". Pedro began with an overview of the Cingular Wireless 3-5 year Master Plan for Los Altos Hills. She noted that the Master Plan was a requirement of the Town's Wireless Communications Policy to be submitted to Council for their review. Pedro noted that each proposed site would be subject to a Conditional Use Permit. The Plan referenced existing and proposed cell facility sites and provided a composite of coverage areas. The proposal before Council for their consideration was the facility at Town Hall and this would be followed by Agenda Item 11.3, the Cingular project at the Purissima Hills Water District site. Pedro offered that an additional Cingular application for a facility at St. Luke's Chapel in Los Altos Hills was currently under review by the Planning Department and would be forwarded to Council within the next few months. Additional proposed cell communications facility sites included Moon Lane and the Matadero Creek Water District property.

Pedro displayed a representative (photo simulation and schematic) slide of the wireless and emergency communications systems co-located on the proposed 70' tree pole located by the Heritage House. All proposed antennas were to be hidden within the canopy of the tree with no antennas exposed beyond the top or tree branches. The Planning Commission had recommended approval of the application and directed Cingular to investigate the feasibility of co-locating an additional vendor in addition to the Emergency Communications Committee's antenna. She reviewed the options for co-

locating additional vendors. The pole was being custom manufactured to have the ability to extend for future co-location.

Pedro reviewed photos of existing tree poles in communities around Los Altos Hills that included close up views of the tree trunks and branches. She passed around a sample of an artificial branch.

Her presentation additionally included: photo simulation of proposed wireless and emergency communicators facility at Town Hall showing how it would blend into the surrounding area; aerial that depicted the distance of the proposed facility to the nearest residences (aerial used was of "old" Town Hall/property lines were identified); and, photos of potential view impact to the immediate neighbors using the COW to represent the tree pole.

Pedro explained that staff was requiring the installation of screening trees (twenty (20) foot evergreen trees) to mitigate the view impact to the neighbors. 36" boxed trees would be planted by the Breier's residence because their existing landscape would require the use of a crane for the larger tree. Pedro clarified that staff had selected tree species that would not interfere with the productivity of the solar arrays in the solar orchard located by the Heritage House.

Pedro spoke to the most recent correspondence from the attorney representing the Breier's and the email correspondence supporting the application. Council had the correspondence before them on the dais.

Tony Kim, Cingular Wireless representative, addressed Council. Cingular facilities had been operating in the Town, without interruption, for the past ten years. Kim expressed their commitment to improving the overall coverage for reliable cell service in the area for the past three years. The company had worked closely with staff and the Emergency Communications Committee to bring forward the Town Hall application. Kim noted that they had held two neighborhood meetings and appeared before the Planning Commission. The proposed Town Hall application would provide coverage improvement to a substantial network footprint. The proposed project would permit co-location of the Emergency Communications Committees equipment that would have required an additional antenna tower on the Town Hall site.

Kim thanked the Council for permitting the COW to be erected on the site, noting that it had clearly demonstrated the effectiveness of having a facility at the location. He respectfully requested that the Council approve their application.

Mayor Kerr asked if Cingular was willing to move forward with the project if the application was approved. Kim responded in the affirmative, explaining that when the building permit was issued, they were prepared to begin the construction that would take three to five weeks.

Mayor Pro Tem Warshawsky requested additional information on the material that was used for the tree and its durability and long term appearance. Kim explained that the

company had a maintenance staff that would ensure that the tree pole retained a good visual appearance and the site was operating properly.

Mayor Kerr questioned if cell sites were located on school campuses. Kim responded that they had cell sites on school properties throughout the State including the Bay Area. They were located on light standards.

Jim Abraham, Emergency Communications Committee, explained that their microwave antenna would be co-located on the Cingular pole. He offered that the Committee had been assessing the Town's emergency communication needs and requirements for the past three years. The Committee supported the proposal before Council and offered that it would provide an effective communication system during an emergency. Abraham explained the need for their additional antennas that they would all be located within the canopy of the tree pole. He concluded that the proposal was a good solution for improved cell phone coverage and emergency communications with little cost to the Town with an aesthetically pleasing approach.

Dru Anderson, Emergency Communications Committee Chair, commented that the Committee as a whole had endorsed the proposed project. Committee member Ray Egan had also participated in the development of the co-location plan. She advised that the Committee had a good working relationship with Cingular and the proposal was a good technical solution to their communication needs.

Councilmember Mordo questioned if it would be feasible to relocate the Emergency Operations Center (EOC) to the Purissima Hills Water District office when it was vacated Ray Egan explained that to function properly, the EOC radio equipment should be within 30 to 50 feet of the Cingular/Emergency Communications Committee antenna.

#### OPENED PUBLIC HEARING

Alan Bien, Conejo Court, distributed a handout to Council titled "Cell Towers for Los Altos Hills-Questions for Town Council". Bien reviewed the questions with Council. He asked if there had been an agreement on the lease fees for the site and if not offered a benchmark. He questioned if the Town received any portion of fees paid to private property owners in the Town and asked who would assume the liability if the tower fell and caused damage. Bien wondered if Cingular and the Town would consider locating the tower at a different site on the Town Hall property where it would have less impact to the neighbors.

Nick Dunkel, Cortez Lane, commented that this was a complex technical issue. He supported the formation of a citizen's advisory committee and suggested that they would be an asset during the negotiations with the vendors and the review of the applications.

Duncan MacMillan, suggested that Council consider a viable commercial provider for the co-location on the tree pole at Town Hall.

Randy Harr, resident, spoke on behalf of the Miranda/De Bell Neighborhood Association. He spoke to a packet from the Association that had been provided to Council earlier in the day that included a Los Altos Hills phone study report conducted by Schireson and commissioned by Mark Breier; and the Cuyahoga County Planning Commission's Wireless Telecommunications Facilities Model Ordinance. Harr reviewed the results of the phone survey with Council and concluded that 62% of those residents contacted believed that the Council should get citizen input on the Town's Mater Plan before proceeding with any specific applications for towers. He suggested that the EOC could be located in a mobile unit.

Resident, Esperanza, commented that he lived behind Town Hall and was concerned with the visual impact of the tower; the proximity to the bus stop, the tower's technology that was being rapidly superseded and that there were four primary companies that would all like their towers in Los Altos Hills. He offered that the review process for this application felt hurried and he suggested that Council delay their decision to ensure that the best technology was being employed for the optimum coverage.

Mayor Kerr explained that the Council had held a public meeting where cellular technologies had been discussed in detail. Councilmember Mordo added that Cingular had been developing their application for approximately three years and it had not been a rushed review.

Christine Sellers, Lassen, Los Altos addressed Council. Sellers assisted with the development of the City of Los Altos Wireless Policy. She explained that her residence was located 350 feet next to a Verizon monopole and she had been bothered by a continual whine being emitted from the tower. She suggested that the pole antennas were old technology and the distributed system of optical repeaters was preferable. Sellers encouraged the Council to look at all of the alternatives for cell coverage.

Resident, shared a personal experience with poor cell phone coverage in Los Altos Hills. His son had car trouble late at night and was stuck on a dark road and it took him approximately an hour to find a location that his call could be completed. He encouraged Council to move forward with approval of the application and to "push forward" with their plans to improve cell coverage in Town as it was an integral part of every day life.

Jeffrey Hare, 10Almaden Boulevard, San Joe, legal counsel for the Breiers', addressed Council. He spoke to the letter that had been sent to Council earlier in the afternoon and apologized for its late timing, but explained they were waiting for additional information and monitoring the Town's agenda before forwarding it to Council. Mr. Hare noted that he had experience in drafting and writing a telecommunications ordinance. He offered that he understood Council's challenge in improving cellular service to the residential customers while minimizing the impact. Hare commented that he believed newer technology had eclipsed the wireless product proposed for the Town Hall site and suggested that the Town had not made the necessary findings to support approval of the Conditional Use Permit. He offered that the telephone survey that was conducted showed that the tower would have an impact on the neighbors. Hare suggested that the Town take time to study the results of the survey and form a citizen's task force to review



the appropriate technology for the site. He requested that the Council, when they take action on the item, deny the application, initiate a moratorium until a comprehensive telecommunications ordinance was adopted. Hare requested that the COW be removed because it had served its purpose.

Ron Knapp, Hilltop Drive, questioned if the internet access component included in the tower proposal would accept the next generation of technology (Y-Max).

Jill Jensen, Purissima Road, questioned if the Town's View Ordinance applied to the Cingular tree pole.

Acting City Manager Carl Cahill explained that the ordinance applied to scenic vistas.

Steve Hubbel, Canejo Court, neighbor of Town Hall addressed Council. He believed the tree pole would impact his view. He advised Council that the screening trees being proposed would also impact his view of the east bay foothills. His preference was not to have any screening trees planted by his property.

Acting City Manager Cahill explained that the approval of the project could be conditioned on the landscape plan being subject to review of the adjoining neighbors.

April Anair, DeBell Road, expressed her concern about the T-Mobile COW that was fifteen from her property line.

Cahill explained that the COW was not operational and staff was in discussions with the vendor regarding the feasibility of the De Bell site.

Mayor Kerr suggested that if Ms. Anair would like Council to discuss the project in further detail, she make a written request to Cahill to have the item agendized for the next Council meeting.

#### CLOSED PUBLIC HEARING

Tony Kim, Cingular Wireless, explained that he had been very mindful of the aesthetics of the Town Hall Cingular facility proposal. He suggested that the mono pine would blend in with the surrounding environment. Kim offered his opinion that the view loss to the neighbors would be offset by the good of improving cell service to the community. In response to the comments from the public regarding noise issues, he explained that the noise might be from a generator. Cingular did not have a generator as a part of the proposed application and the noise emitted from the facility would be the equivalent to a refrigerator running.

Acting City Manager Cahill explained that Condition #22 addressed the noise issue. The applicant was required to adhere to a 40 decibel limit.

Mayor polled the Council for their availability for a Special meeting to consider the Cingular application. Council consensus was to schedule the Special meeting for March 16, 2006 to convene at 5:00 p.m.

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by Warshawsky and passed unanimously to defer Council deliberation on Agenda Item 11.1 to the Special Meeting of March 16, 2006 at 5:00 p.m.

Mayor Kerr advised the audience that Council had closed the public testimony on the Agenda Item had would not take additional public comment at the Special Meeting but that there would be an opportunity to address Council under Presentations from the Floor.

11.3 A Request for a Site Development Permit, Conditional Use Permit and Setback Variance to Allow an Unmanned Wireless Communications Facility Consisting of Three (3) pairs of Panel Antennas Mounted to an 87 foot tall Artificial Tree Pole (Plus 6 feet to Total Height for Tree Pole Branches) and Associated Ground Level Equipment Located in the Required Setback: Lands of Purissima Hills Water District, APN #142-16-077

Assistant Planner Brian Froelich introduced this item to Council. He presented a PowerPoint presentation titled "Lands of Purissima Hills Water District, Cingular Wireless, 87' Tree pole and Ground Equipment". The presentation included: an aerial map of the site and its relationship to the nearest residence; site plan with equipment pad and tree pole, Cingular Wireless Three to Five Year Master Plan for Los Altos Hills with Cingular existing sites and coverage area; simulation of Cingular Wireless existing and proposed sites and coverage, photo simulations of the site and proposed tree pole and photo simulation of the proposed tree pole as seen from Interstate 280.

Froelich summarized his staff report for Council. He noted that the Planning Commission had voted 5-0 to recommend approval of the application. The proposed tree pole was located at the Purissima Hills fresh water pump station. The site was surrounded on three sides by I-280 and undeveloped Stanford lands with the nearest residence 400' away on Horseshoe Court. The proposed tree pole would accommodate co-location of another vendor and had the same aesthetic requirements and conditions as the proposed Cingular project at Town Hall.

Tony Kim, Cingular Wireless, explained that the extended height for the tree pole was necessitated by the site being situated in a canyon. He offered that the facility would improve the cell coverage footprint to residents in their homes and the I-280 corridor.

#### OPENED PUBLIC HEARING

Jitze Couperus, Page Mill Road, requested a clarification of the coverage map.

Tony Kim explained that the proposed antenna would improve coverage to the north to Page Mill Road and Deer Creek Road to the south to Elena Road and to the east-La Cresta Drive and to the west-Saddle Mountain Drive.

Public, commented that the cellular study conducted by the City of Los Altos had identified the need for 100 additional antennas to improve service in their community. He suggested that the Town needed a study from all of the providers to understand what was needed to improve coverage. He suggested that the Town residents would want a different wireless policy if they understood how many antennas would be needed for 100% coverage.

Councilmember Mordo explained that the Town was encouraging co-location on antennas and was under no obligation to provide 100% coverage for all of the cell companies. There were limited sites available and it was the proactive vendors that would be able to improve their coverage.

Jeffrey Hare, Almaden Boulevard, San Jose, offered that the Town did not have a Wireless Ordinance in place to regulate and control applications and requests for sites from providers. He suggested that the Town had not identified the cumulative impact to residents and that they needed to take the right approach or they would suffer the consequences. Hare noted that he was not legal counsel to any resident regarding this application.

Mayor Kerr noted that the Council as advised by the City Attorney would be deferring their consideration of this item to the Special Meeting.

#### CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Jones and passed unanimously to close the Public Hearing and to continue Council discussion and action on Agenda Item 11.3 to the February 16, 2006 Special Meeting.

Council adjourned to Closed Session at 10:45 p.m.

#### 12. CLOSED SESSION

##### CLOSED SESSION: PUBLIC EMPLOYEE APOINTMENT

(Pursuant to Government Code Section 54957)

Position: Interim City Manager

Council Reconvened to Open Session at 10:45 p.m.

Report out on Closed Session items: No action was taken.

#### 13. ADJOURNMENT

There being no further business, the meeting was adjourned by consensus of the City Council at 10:45 p.m.

Respectfully submitted,

Karen Jost, City Clerk

The February 9, 2006 City Council meeting minutes were approved as presented at the March 23, 2006 City Council meeting.